

# **Indiana's Streamlined EIS Procedures**

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# Introduction

The purpose of “Indiana’s Streamlined EIS Procedures” is to establish a coordinated planning and project development process for major transportation projects in Indiana.

These procedures are intended primarily to address projects for which the Federal Highway Administration (FHWA) is or may be required to prepare an Environmental Impact Statement (EIS) under the National Environmental Policy Act. These procedures contemplate that in some instances, FHWA will proceed directly to preparation of an EIS, but in other instances, the NEPA process will begin with the preparation of an Environmental Assessment (EA)/Corridor Study, which may transition to an EIS. These procedures supersede the Indiana NEPA/404 (Section 404 of the Clean Water Act) Agreement, dated May 1996.

These procedures will be used to:

- Allow documentation developed by FHWA, in compliance with the National Environmental Policy Act (NEPA), to serve as a substantial part of the documentation required by other permitting and funding agencies in accordance with applicable laws and regulations.
- Implement the environmental streamlining requirement in Section 1309 of the Transportation Equity Act of the 21<sup>st</sup> Century (TEA-21) to establish a coordinated environmental review process, with time limitations, concurrent reviews, and a dispute resolution process.
- Fulfill the major investment analysis requirements in 23 CFR 450.318 (Major Metropolitan Transportation Investments) and the “alternatives analyses” requirements in Section 3(i)(1)(A) of the Federal Transit Act where discretionary Section 3 “New Start” funding is being sought.
- Serve as the vehicle for accomplishing the project development coordination functions and public involvement functions called for under the “FHWA-IN Section 106 Procedures.” Where disagreements arise that are specifically related to Section 106 issues, the Section 106 consultation meetings called for under the FHWA-IN Section 106 Procedures will provide a focused mechanism to resolve such disagreements between consulting parties.

Ultimately, this streamlined EIS process is intended to achieve the timely and efficient identification, evaluation and resolution of environmental and regulatory issues. They establish “**one decision-making process**” to identify and address agency issues at three (3) key milestones as part of the planning/NEPA process for major transportation projects. By early identification of agency issues, when the greatest flexibility exists to address them, this process is intended to ensure that basic issues concerning project

Purpose and Need (P&N) and the screening of alternatives can be resolved prior to approval of the Draft Environmental Impact Statement (DEIS). The DEIS can then focus on addressing outstanding public and agency concerns regarding avoidance, minimization, and mitigation. Basic P&N and preliminary alternatives screening issues are resolved prior to approval of the DEIS.

These procedures are intended to be flexible and adaptable. They may be revised from time to time by FHWA and INDOT to achieve further improvements in the planning and project development processes. In addition, FHWA and INDOT may adopt different procedures, in the context of a particular project, without modifying this document. Lastly, these procedures are intended only as a general guide; they are not intended to create any new binding legal requirements, nor are they intended to create enforceable legal rights or obligations on the part of FHWA, INDOT, MPOs, or any other party.

Additional procedures that govern the FHWA decision-making process for transportation projects in Indiana include: (1) Indiana's Streamlined Categorical Exclusions (CE) Procedures; (2) the FHWA-IN Section 106 Procedures; (3) the FHWA Indiana Noise Policy; and (4) the INDOT Public Involvement Policy. All of these documents are available from the Indiana Division of FHWA.

#### Agencies involved

The agencies involved in this process are:

- FHWA
- Indiana Department of Transportation (INDOT)
- Federal Transit Administration (FTA)
- Corps of Engineers (COE)
- Environmental Protection Agency (EPA)
- Fish and Wildlife Service (FWS)
- Coast Guard (CG)
- National Park Service (NPS)
- Natural Resources Conservation Service (NRCS)
- Indiana Department of Natural Resources (IDNR)
- IDNR State Historic Preservation Officer (SHPO)
- Indiana Department of the Environment Management (IDEM)
- Metropolitan Planning Organization (MPO) and associated Transit Agencies

#### How process was developed and will be updated

These procedures have been developed in consultation with the agencies listed above. This document is meant to be a dynamic document. It will be re-evaluated for its effectiveness and modified by FHWA and INDOT as new ideas for increased effectiveness are identified. The current version is on the FHWA Indiana Division website (<http://www.fhwa.dot.gov/indiv/procedures>). It can be viewed or downloaded.

# Background

## Planning Process

Per the Statewide and Metropolitan Planning requirements and the associated Clean Air Act requirements, all Federal-aid projects find their origin in a comprehensive planning process (per Section 134 and 135 of Title 23 of the United States Code, Section 8 of the Federal Transit Act, and Sections 174 and 176 (c) and (d) of the Clean Air Act). INDOT and the MPOs utilize travel demand models to forecast future transportation needs, based on 20-year projections of population and employment that have been allocated based on adopted land use plans. After extensive analysis of needs, evaluation of various project proposals, consideration of environmental and community issues, and coordination between INDOT and local elected officials, INDOT and the MPOs adopt 20-year Statewide and Metropolitan Transportation Plans (TP). These plans present a coordinated, fiscally constrained, and conforming program of expansion projects that address their competing needs within available financial resources. In air quality non-attainment or maintenance areas (as designated under the Clean Air Act), FHWA and FTA, in consultation with EPA and IDEM, jointly issue a formal finding based on an air quality analysis, to demonstrate that the mix of programmed projects “conform” to the requirements of the Clean Air Act and the associated State Implementation Plan (SIP).

## Need for Planning/NEPA Process Improvement

Prior to implementation of these procedures, the general public and elected officials expressed dissatisfaction with the INDOT/FHWA project development process. INDOT planning studies (Major Investment Study, Feasibility Study, Scoping Study, Engineers Report, or Corridor Study) involved extensive outreach to communities and associated elected officials. The general public and elected officials became frustrated when the NEPA “decision-making” process was initiated and controversial alternatives that they thought had been eliminated were being reevaluated. This resulted in a duplication of effort and an inefficient use of taxpayer dollars. Additionally, agencies had the perception that significant project decisions were made during the planning study prior to initiating NEPA.

# Indiana's Streamlined EIS Procedures

These procedures are intended to eliminate the duplication of effort between the planning study and the NEPA study for major transportation projects by combining them into one study, **“one decision-making process.”** This is accomplished by initiating NEPA earlier in the planning process, i.e., by conducting the planning/corridor study in the context of NEPA. In this context, the word “corridor” is used in the broad planning sense to mean an entire travel-shed or sub area in which multiple transportation facilities are experiencing congestion, safety or other problems. The potential solution to these transportation problems may involve multiple facilities and multi-modal actions.

## Planning Study in context of EIS

If the statewide and metropolitan planning process results in clear consensus between INDOT and the MPO regarding the design concept and scope for a project with independent utility, and there is agreement to fund the proposed action, the project will be programmed into the INDOT Production Schedule and MPO 20-year TP. The proposed action also will be programmed into the MPO Transportation Improvement Program (TIP)/Indiana Statewide Transportation Improvement Program (INSTIP), if federal funds are to be used for preliminary engineering (PE). If significant impacts are anticipated, a Notice of Intent (NOI) to initiate an EIS will be published in the Federal Register. The EIS process will address the major investment analysis requirements (per 23CFR450.318(f)(2), if the project is in an MPO area).

## Planning Study in context of EA/Corridor Study

If the statewide and metropolitan planning process does not result in clarity or consensus between INDOT and the MPO regarding design concept and scope, as well as agreement to fund the proposed action, the planning study generally will be initiated as an EA/Corridor Study. For fiscal constraint and conformity purposes, the “no build” will be assumed for TIP/INSTIP programming purposes. The MPO may include its concept of the desired action as an illustrative project in its 20-year TP for informational purposes if it wishes, but it must be clear that the project is not included in the fiscally constrained conforming element of the TP.

The EA/Corridor Study will identify one or more projects of independent utility (Projects) within the corridor. For each Project, the EA/Corridor Study will determine the appropriate level of NEPA documentation – i.e., an EIS, EA/FONSI, or CE. For each Project that requires an EIS, and for other Projects if determined appropriate by FHWA and INDOT, the EA/Corridor Study will identify:

1. Purpose and & Need
2. Preliminary Alternatives and transportation modes considered
3. Alternatives retained for further study

The initial EA/Corridor Study is developed using primarily existing data sources. However, the EA/Corridor Study may need to be supplemented to include additional fieldwork and mitigation. For example, if the analysis of existing data indicates that a Project does not involve any significant impacts to the environment, the FHWA or INDOT may decide that the EA/Corridor Study should be augmented to include a more detailed analysis of impacts.

If FHWA determines, after the completion of the EA/Corridor Study (including any detailed analysis or field work) that a Project (or group of Projects) does not have significant impacts, the FHWA will publicly release the EA/Corridor Study and provide an opportunity for a Public Hearing. After holding a public hearing, or determining that there is not sufficient interest to hold such a hearing, FHWA will issue a Finding of No Significant Impact (FONSI) for the Project (or group of Projects). If appropriate, FHWA also may authorize the approval of one or more Projects covered in an EA/Corridor Study through Categorical Exclusions (CEs). In the case of Projects that qualify for CEs, it is not necessary to provide an opportunity for a public hearing.

If FHWA determines at any time that a Project examined in an EA/Corridor Study involves significant impacts and therefore requires preparation of an EIS, a FONSI will not be issued. Instead, FHWA and INDOT will consult to determine whether consensus has been reached regarding the design concept and scope for the Project. Once consensus is reached regarding design concept and scope, and the project is programmed into the INDOT Production Schedule, MPO 20-year TP, and TIP/INSTIP (if federal funds are used for PE), FHWA will issue a Notice of Intent (NOI) to initiate an EIS in the Federal Register for each Project.

The EIS for a Project will pick up where the EA/Corridor Study left off. In the typical process, there should be no need to “redo” any of the work accomplished under the previous EA/Corridor Study. Rather, the EIS would augment, as appropriate, the P&N and screening of preliminary alternatives that previously was completed in the EA/Corridor Study.

## **Basic Elements**

Regardless of whether the proposed action is initiated as an EIS or EA/Corridor Study, the following processes will be utilized. The Project Coordination Team may choose to combine certain steps or otherwise modify these procedures on a case-by-case basis.

### Project Coordination Team

A Project Coordination Team will be assembled at the beginning of each project. The purpose of the Project Coordination Team will be to provide 1) input to the development of the consultant scope of services, and 2) guidance to the project consultant at each step of the project development process. The Project Coordination Team will include a

representative from INDOT (and another State DOT if applicable), Indiana Division of FHWA (and another Division if applicable), Region 5 FTA (if an FTA New Start may be involved), and the MPO (if the project study area is in an MPO area). The MPO has been included in the Project Coordination Team so that the MPO can assure that the project specific modeling is consistent with the adopted land-use plan and transportation plan (both highway and transit) for its metropolitan planning area and ensure due consideration of multi-modal solutions. The creation of the Project Coordination Team is intended to facilitate better coordination among the agencies with primary responsibility for the planning process (namely, the MPO and INDOT) and the agencies with primary responsibility for the NEPA process (namely, FHWA and INDOT). The creation of the Project Coordination Team is *not* intended to change in any way the existing roles and responsibilities of the various entities involved in each process. Specifically, these procedures are not intended to give FHWA greater authority over planning, nor are they intended to give the MPO greater authority over the NEPA process, in comparison to current conditions.

Section 102(2)(D) of NEPA allows FHWA to delegate certain NEPA development responsibilities to INDOT and consultants who serve as an extension of INDOT staff. Nonetheless, FHWA assumes full responsibility for engaging INDOT and the consultant to assure that the products issued by the consultant represent the position of FHWA. All of the coordination packages (P&N and Preliminary Alternatives Package, Preliminary Alternatives Analysis and Screening Package, etc.) are working documents and will continue to be refined as additional information becomes available. All reports issued by the consultant on behalf of FHWA and INDOT are preliminary in nature. The P&N is subject to refinement as additional information becomes available from the agencies and the public. Some of the issues raised at the various coordination points, may not be fully addressed until the EIS is formally approved. FHWA signature on the DEIS constitutes FHWA's first formal endorsement of purpose and need and the associated alternatives analysis.

Regarding Section 106 coordination, FHWA recognizes that the SHPO's role is one of consultation. It is FHWA's responsibility to identify register eligible properties, assess effect, and resolve adverse effects. In carrying out these responsibilities, FHWA will rely upon the assistance of INDOT and INDOT consultants to the extent authorized under the Section 106 regulations, as provided in the FHWA-IN Section 106 Procedures. For projects involving corridors or large land areas, including EA/Corridor Studies, FHWA will support the use of a "phased" approach to Section 106 compliance, as allowed under 36 CFR 800.4(b)(2) and 800.5(a)(3).

### Three (3) Key Coordination Points with Agencies

The streamlined process provides numerous opportunities for agency input and includes requests for formal agency comment at three (3) key milestones:

1. P&N and Preliminary Alternatives to be considered,



2. Preliminary Alternatives Analysis and Screening, and
3. Preferred Alternative and Mitigation.

A Coordination Point Package will be distributed and an Interagency Review Meeting will be held at each of these three (3) Coordination Points. These Coordination Points are in addition to the initial early coordination letter (see Step 1 below) and the official review that agencies routinely conduct on the approved DEIS (see Step 4 below).

#### Interagency Review Meetings

During the early coordination stage of an EA/Corridor Study or an EIS, the Project Coordination Team will coordinate with the agencies listed on page 4 of these procedures to determine which agencies have an interest in participating in the study. Agencies that wish to participate will be "Participating Agencies" for purposes of the study. Participating Agencies will be included on the mailing list for all agency coordination correspondence, including the Coordination Point Packages.

The Project Coordination Team will review each Coordination Point Package and assure that it is updated to represent the INDOT and FHWA position. Once the Package is acceptable, the consultant will forward the Package to the Participating Agencies for their review and comment. The cover letter transmitting the Package will establish a deadline for written comments (approximately 60-day review period) and a date for the Interagency Review Meeting (halfway into 60-day review period). The consultant will send a summary of the agency issues identified during the Interagency Review Meeting to the Participating Agencies within 7-days via e-mail. The agencies will have the benefit of the meeting summary in preparing their written comments.

If agency concerns have been effectively captured in the meeting summary, Participating Agencies may choose not to submit written comments or may submit a letter simply concurring in the meeting summary. If a Participating Agency believes a meeting summary is not accurate, or has additional issues, the agency is encouraged to submit written comments by the designated deadline.

The coordination points will not serve as a barrier to proceeding to the next stage of project development. The P&N and alternatives analysis will continue to be refined through the development of the Final Environmental Impact Statement (FEIS) as new information becomes available.

#### Public Involvement

Per 23 CFR 771.111(h), FHWA has approved the "INDOT Public Involvement Procedures." These procedures call for a formal Public Hearing after issuance of the DEIS. The Project Coordination Team is encouraged to conduct a Public Meeting at the P&N and Preliminary Alternatives Coordination Point and the Preliminary Alternatives Analysis and Screening

Coordination Point. The consultant will prepare a meeting summary of these public meetings to document the major issues and concerns expressed at the public meeting.

## **EIS Development Process**

### Publish NOI and Issue Early Coordination Letter

Once the Project Coordination Team has been assembled, and a consultant is on-board to initiate the environmental study, an Early Coordination Letter will be issued notifying agencies that FHWA is initiating a NEPA decision-making process. The Early Coordination Letter will include a map of the study area, and a description of the proposed action. The letter also will invite the agencies to be Participating Agencies in the study, and will explain what Participating Agency status involves – i.e., an agency should become a Participating Agency if it would like to receive all Coordination Point Packages and be invited to all Coordination Point Meetings.

In the case of an EIS, the proposed action can be described in terms of the design concept and scope that is included in the INDOT Production Schedule and the MPO 20-year Transportation Plan. In the case of an EA/Corridor Study, the description of the proposed action may be described in more general terms – e.g., “proposed transportation improvements that provide additional capacity in the corridor.” Per the FHWA-IN Section 106 Procedures, the letter will also invite consulting parties for purposes of Section 106. If the project is being initiated as an EIS, FHWA will publish a NOI in the Federal Register and invite “Cooperating Agencies”.

### Develop P&N and Preliminary Alternatives

At this stage, the consultant is collecting a wide variety of baseline information. The type of baseline information needed will vary from project to project, but could include the following items:

1. Project history/background
2. Design concept and scope of project in the Statewide and Metropolitan Transportation Plans or local agency Master Plans where they exist
3. Limits of the study area for NEPA purposes (and area of potential effect for Section 106 purposes)
4. Existing traffic (AADT) and peak-hour level-of service
5. Initial estimate of 20-year projected traffic/peak-hour level-of-service for design-year of project for no-build (include committed projects in MPO 20-year TP, less action being evaluated) based on INDOT Statewide Model or MPO Model
6. Traffic safety data, geometric deficiencies and accident data

7. System efficiency/connectivity
8. Areas of interest to local citizens and elected officials
9. Legislative policies and mandates
10. Economic initiatives
11. Intermodal relationships, including bicycle/pedestrian systems, transit (rail and bus), port facilities and airport facilities
12. Congestion Management System (CMS) status (identify how the project was analyzed in the State/MPO CMS process)
13. NWI wetlands identified in project study area, including prior converted and farmed wetlands where possible (consult NRCS)
14. Floodplains, streams, and rivers
15. Threatened and endangered species
16. Historic structures and assessment of archeological potential
17. Consulting parties for Section 106 purposes
18. Parklands, wildlife lands, and nature preserves
19. Existing land use map and locally adopted land use plan (including horizon year)
20. Environmental Justice concerns (census information and interpretation is needed)
21. Clean Air Act conformity status
22. Sites identified on the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) list and other potential hazardous sites
23. Indirect/Cumulative impacts (for certain resources or functions that may be “significantly” impacted by the proposed action)

#### Agency Review Package

The consultant will prepare the P&N and Preliminary Alternatives Package and include the following, unless otherwise specifically approved by FHWA:

1. 2-3 page P&N Summary that:
  - a. Describes the 1-3 core objectives of the proposed action, as well as any secondary objectives.
  - b. Explains the underlying basis for the project objectives in terms of (1) relevant federal, state, and/or local policies, which may include transportation, economic development, land use, and other policies; (2) relevant data, which may include data regarding transportation conditions, economic conditions, land use conditions, and other conditions; and (3) public and agency comments regarding the definition of the project's objectives.
  - c. Describes the evaluation criteria that will be used to evaluate the effectiveness of an alternative in meeting P&N, and explains how those evaluation criteria will be used.
  - d. Describes any other factors, beside P&N, that will be considered in the screening of alternatives, such as cost or environmental factors.
  - e. Includes a map showing the preliminary alternatives
2. P&N supporting narrative and technical documentation
3. Initial range of preliminary alternatives to be considered

Once the Project Coordination Team is satisfied with the contents of the Coordination Point Package, the consultant will forward the Package to the Participating Agencies for review and comment. The cover letter will establish a deadline for written comment and the date of the Interagency Review Meeting (60-day review period with Interagency Review Meeting halfway through the review period). Ideally, the P&N Interagency Review Meeting will be held near the project location and a field trip will be offered in conjunction with the meeting.

#### Agency Feedback

Specific feedback that is being sought from the Participating Agencies include comments addressing the following issues:

1. Statement of core project objectives
2. Evaluation criteria for alternatives
3. Additional alternatives that should be considered
4. Modifications to existing alternatives

5. Modifications to the study area or termini
6. Specific resource issues
7. Response to FHWA invitation to be a Cooperating Agency
8. Any additional key information

The consultant will send a summary of the agency issues identified during the Interagency Review Meeting to the Participating Agencies within 7-days via e-mail. The Participating Agencies will have the benefit of the meeting summary in preparing their written comments.

#### Preliminary Alternatives Analysis and Screening

Based on feedback from Participating Agencies and the public, the Project Coordination Team will meet with the consultant and agree on revisions to the project study area, termini, P&N and the preliminary alternatives to be evaluated. Major investments in transit are normally addressed as part of the MPO planning process, and so transit alternatives analysis will largely build on the MPO transit analysis and reaffirm or expand on that analysis as appropriate.

A preliminary alternatives analysis will be done on the wide range of preliminary alternatives that have evolved from the various public/agency/working-group contacts. This initial analysis will serve to determine if there is a fundamental engineering, safety, or environmental fatal flaw, or failure to meet basic P&N (by applying the evaluation criteria identified in the P&N) that would render a given alternative not “reasonable” for NEPA consideration. This analysis can usually be completed based on data that is available from existing data sources. The evaluation criteria must be consistently applied to all of the preliminary alternatives.

For highway projects, the number of potentially reasonable alternatives is often extremely large, if each distinctly different alignment is considered a separate alternative. In such cases, the goal of the screening process should be to identify a reasonable range of alternatives representing the full spectrum of reasonable alternatives. One way to achieve this goal is to screen a set of similar alternatives down to one alignment that can be considered the “best in family.”. In this way, it is anticipated that the wide range of preliminary alternatives generally can be narrowed to approximately 2-5 “reasonable” alternatives for further DEIS analysis.

#### Agency Review Package

Once the preliminary alternatives analysis is completed, the consultant will prepare the “Preliminary Alternatives Analysis and Screening Package.” The Package will include:

1. Revised 2-page P&N Summary
2. 2-page Preliminary Alternatives Screening Summary Table and a map that show the location of the preliminary alternatives, their effectiveness in addressing P&N (objectives/evaluation criteria), and why alternatives are being dropped from further consideration
3. Results of the preliminary alternatives analysis and analysis of environmental impacts (based on existing data sources/GIS inventories)
4. Narrative describing the rationale why each alternative “is” or “is not” being carried into the DEIS for further analysis
5. Where significant impacts are anticipated, scopes and methodologies of studies, including the spatial & temporal limits of any indirect/cumulative impact analyses

Once the Project Coordination Team is satisfied with the contents of the Package, the consultant will forward the Package to the Participating Agencies for review and comment. The cover letter will establish a deadline for written comment and the date of the Interagency Review Meeting (60-day review period with Interagency Review Meeting halfway through the review period).

#### Agency Feedback

Specific feedback that is being sought from the Participating Agencies include comments addressing the following issues:

1. Clarity of the results of the preliminary alternatives analysis
2. Alternatives to be retained for further analysis
3. Rationale of scopes/methodologies for evaluating impacts
4. Where significant impacts are anticipated, scopes and methodologies of studies, including the spatial & temporal limits of any indirect/cumulative impact analyses
5. If they want to review the preliminary DEIS

The consultant will send a summary of the agency issues identified during the Interagency Review Meeting to the Participating Agencies within 7-days via e-mail. The Participating Agencies will have the benefit of the meeting summary in preparing their written comments.

### Complete DEIS (or EA/Corridor Study)

Based on comments received from the public, stakeholders, the Interagency Review Meetings, and the associated formal written agency comments, the NEPA lead agencies (typically FHWA and INDOT) will decide which preliminary alternatives will be retained for further study and the scopes of the studies to be undertaken. The studies will focus on resources and functions that may influence the decision. A consultant (possibly under a separate contract) will then proceed with development of the preliminary DEIS or EA/Corridor Study.

### Transition of EA/Corridor Study to EIS

The EA/Corridor Study will conclude that each Project examined in the study either “does” or “does not” involve significant impacts. As noted previously, the EA/Corridor Study will identify the following for each Project (i.e., each project with independent utility):

1. P&N
2. Preliminary Alternatives and transportation modes considered
3. Alternatives retained for further study

Based on feedback from the Participating Agencies and the public, INDOT and the MPO (if project is in MPO planning area) will determine if there is consensus to support programming a given design concept and scope into the INDOT Production schedule and MPO 20-year TP. This programming action indicates the associated elected officials are committed to funding the proposed action. This planning decision may result in one Project, or multiple Projects for which additional NEPA study is required.

The initial EA/Corridor Study is developed using primarily existing data sources. However, the EA/Corridor Study may need to be supplemented to include additional fieldwork and mitigation. For example, if the analysis of existing data indicates that a Project does not involve any significant impacts to the environment, the FHWA or INDOT may decide that the EA/Corridor Study should be augmented to include a more detailed analysis of impacts.

If FHWA determines, after the completion of the EA/Corridor Study (including any detailed analysis or field work) that a Project (or group of Projects) does not have significant impacts, the FHWA will publicly release the EA/Corridor Study and provide an opportunity for a Public Hearing. After holding a public hearing, or determining that there is not sufficient interest to hold such a hearing, FHWA will issue a Finding of No Significant Impact (FONSI) for the Project (or group of Projects). If appropriate, FHWA also may authorize the approval of one or more Projects covered in an EA/Corridor Study through Categorical Exclusions (CEs). In the case of Projects that qualify for CEs, it is not necessary to provide an opportunity for a public hearing.

If FHWA determines at any time that a Project examined in an EA/Corridor Study involves significant impacts and therefore requires preparation of an EIS, a FONSI will not be issued. Once consensus is reached between INDPT and the MPO regarding design concept and scope, and the project is programmed into the INDOT Production Schedule, MPO 20-year TP, and TIP/INSTIP (if federal funds are used for PE), FHWA will issue a Notice of Intent (NOI) to initiate an EIS in the Federal Register for each Project.

The EIS for a Project will pick up where the EA/Corridor Study left off. In the typical process, there should be no need to “redo” any of the work accomplished under the previous EA/Corridor Study. Rather, the EIS would augment, as appropriate, the P&N and screening of preliminary alternatives that previously was completed in the EA/Corridor Study.

### Prepare DEIS

A more detailed environmental analyses of the impacts to communities, natural, socio-economic and cultural resources (including Section 4(f)) will be conducted, including avoidance, minimization and potential mitigation measures. Special attention should be given to addressing the potential for indirect and cumulative impacts. This effort will require coordination with the Participating Agencies, local governments, Section 106 consulting parties and the public to address their concerns and refine the alternatives.

If appropriate, an agency wetland field review meeting will be held to:

1. Determine jurisdictional wetland boundaries
2. Discuss any avoidance and minimization measures already incorporated into the project alignments, as well as potential future measures that should be investigated
3. Review any potential wetland mitigation sites that may be noted during the delineation effort
4. Begin preliminary discussions regarding mitigation goals and the types of wetlands to be created

For all impacted resources, the Participating Agencies will coordinate with the consultant regarding concerns about avoidance, minimization and mitigation. The consultant will document the avoidance and minimization efforts (including best available data on bridge lengths, retaining walls, cross-section revisions, alignment shifts, etc.) in the preliminary DEIS and will include a general discussion of potential mitigation strategies and anticipated future agency coordination.

The DEIS will include a summary of the major issues raised by Participating Agencies and generally how each issue was addressed in the document. This section can include



summaries from Interagency Review Meetings, public meetings and any written comments received.

Once the preliminary DEIS is prepared, the consultant will distribute it to the Project Coordination Team and cooperating agencies. (Note: The pre-draft DEIS will be distributed only to cooperating agencies, not to all Participating Agencies.) Upon request, a Participating Agency will also be afforded the opportunity to review and comment on the preliminary DEIS if they so desire. If there is heightened sensitivity regarding release of the preliminary DEIS prior to addressing FHWA comments, the agencies may be asked to review the document in an INDOT or FHWA Office (INDOT Central Office, FHWA Indiana Division Office, FHWA Midwest Resource Center Office, or FHWA Chicago Metro Office). The reviewers will have thirty (30) calendar days from receipt to review the document and provide comments to the consultant.

The consultant will revise the DEIS based on any comments received from the Project Coordination Team and/or other agencies and present the updated DEIS to the Project Coordination Team. The consultant will “walk through” the comments received on the preliminary DEIS and discuss how the issues have been addressed. Once the revisions have been finalized, the DEIS will be forwarded to FHWA for approval.

Once FHWA is satisfied that the comments have been satisfactorily addressed, FHWA will sign the DEIS and return it to INDOT for printing and distribution. The printing and distribution of the approved DEIS can be accomplished by the consultant, but copies of the distribution letters should be provided to both INDOT and FHWA. The formal Public Hearing will be scheduled and held in accordance with the “INDOT Public Involvement Procedures.”

#### Identify Preferred Alternative and Mitigation

The Project Coordination Team will review all comments provided by the public, the Participating Agencies, and any others. The NEPA lead agencies (typically FHWA and INDOT) will then identify the Preferred Alternative and will begin developing appropriate mitigation. In developing mitigation for the Preferred Alternative, it is important to differentiate between specific mitigation commitments and those that will be considered for possible implementation during final design. At this stage, some of the final design details may not exist for given mitigation commitments, but there should be clarity between “committed mitigation” and “mitigation opportunities that will be explored during final design.”

#### Agency Review Package

Based on feedback from the Project Coordination Team, the consultant will prepare the Preferred Alternative and Mitigation Package and include the following:

1. 2-page Preferred Alternative and Mitigation Summary that:

- a. Describes the various elements of the Preferred Alternative
  - b. Describes the various element of the proposed mitigation
  - c. Includes a map locating the elements of the Preferred Alternative and mitigation
2. Narrative describing the various elements of the Preferred Alternative
3. Rationale for recommending Preferred Alternative and not others
4. Summary of major public and agency issues and how they were addressed

Once the Project Coordination Team is satisfied with the contents of the Package, the consultant will forward the Package to the Participating Agencies and local elected officials for review and comment. The cover letter will establish a deadline for written comment and the date of the Interagency Review Meeting (60-day review period with Interagency Review Meeting halfway through the review period).

#### Agency Feedback

Specific feedback that is being sought from the Participating Agencies include:

1. Response to agency issues
2. Rationale behind selecting the Preferred Alternative and Mitigation

The consultant will send a summary of the agency issues identified during the Interagency Review Meeting to the Participating Agencies within 7-days via e-mail. The Participating Agencies will have the benefit of the meeting summary in preparing their written comments.

#### Complete FEIS/ROD

The Project Coordination Team will assemble once the agency comments have been collected on the Preferred Alternative and Mitigation Package. INDOT will present its recommended Selected Action and Mitigation to the Project Coordination Team, including a summary of comments received during the public involvement meeting(s) and comments received from the Participating Agencies at the Interagency Review Meeting for the Preferred Alternative and Mitigation. The INDOT Commissioner will then choose the Selected Action and Mitigation.

The FEIS will be prepared that serves to respond to all the public and agency comments on the DEIS. The public agency coordination chapter will include all formal letters received from the Participating Agencies since the issuance of the DEIS and explicitly summarize and respond to all the associated issues on an agency-by-agency basis.

The preliminary final document will be provided to FHWA for review, and one copy will be forwarded to FHWA legal counsel for a 30-day legal sufficiency review. Once the FHWA comments have been adequately resolved, INDOT will forward the FEIS to FHWA in final form for signature. INDOT will then distribute the FEIS per the FHWA instructions in the FHWA approval letter. The Record of Decision (ROD) will be issued after the thirty (30) day review period established in the FEIS Federal Register Notice. The alternative selected in the ROD should be referred to in the ROD, and after the ROD is issued, as the "Selected Action" (or "Selected Alternative").

INDOT will then issue a public notice to the general public in the project area and the Participating Agencies to inform them that the ROD has been issued, thereby bringing closure to the NEPA decision-making process.

### Final Design

Once the ROD is approved, INDOT will conduct final design of the project(s). INDOT will continue to refine the design of the Selected Action to further minimize impacts to the natural and human environment. Mitigation for unavoidable impacts will continue to be refined. For example, Phase III archeology, additional noise abatement studies, and searches for replacement parkland may be required during final design.

As the design details and wetland mitigation details are developed, INDOT will get any required Section 404 and IDNR Construction-in-Floodway Permits. These permitting processes should be able to utilize the FHWA NEPA process largely to satisfy permitting requirements. Nonetheless, the COE public notice and permit issues must be resolved in the context of the COE 404(b)(1) guidelines and permitting process. FHWA and INDOT will continue to coordinate these efforts with the appropriate agencies and assure they are all resolved before FHWA authorizes construction.

The INDOT Design Summary will document that all the mitigation commitments made in the FEIS/ROD have been incorporated into the project and affirm that the required permits have been acquired. Any commitments associated with construction will be included in a Mitigation Memo to the Project Construction Engineer and the associated commitments will be reflected in the project plans, specifications, and estimate (PS&E) so that the associated implementation costs are satisfactorily reflected in the project construction contract.

Furthermore, INDOT will maintain a mechanism to assure environmental commitments are implemented and the associated permit/monitoring commitments are fulfilled. FHWA will conduct process reviews periodically to assure that environmental commitments are being effectively implemented.

# Conflict Resolution Process

The Participating Agencies will participate with FHWA and INDOT in any additional consultation necessary to resolve, whenever possible, the concerns that have been raised regarding purpose and need; alternatives; and resource avoidance, minimization and mitigation. Any agency may initiate this process as soon as a potentially conflicting issue is identified. The goal of the conflict resolution process is to resolve technical and/or policy issues at the lowest possible staff level. But, if this is not possible, it is desired that the Conflict Resolution Process be invoked as soon as possible so that differences of opinion are not allowed to become divisive or polarizing. The steps in the process are briefly described below:

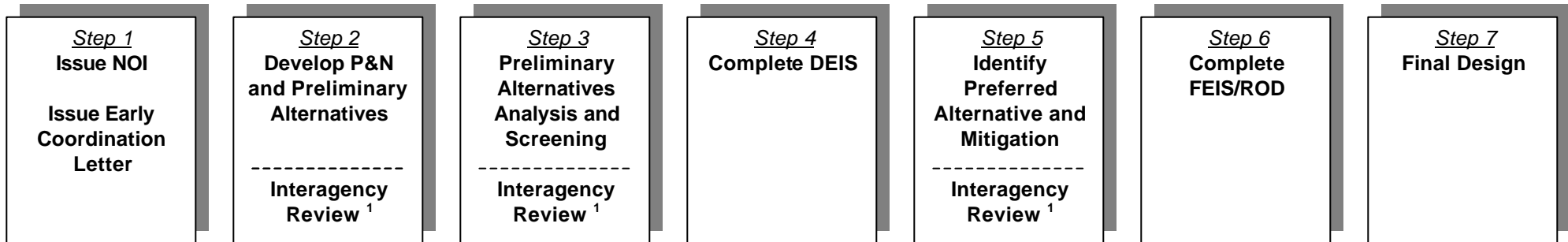
- Step 1 - Ideally, conflicts are identified prior to the Interagency Review Meetings, and a separate session is established either the day before or after the Interagency Review Meeting to caucus to address the issue. It is desired that such meetings involve the consultant and working level staff from FHWA, INDOT and the concerned agency.
- Step 2 - If FHWA and INDOT determine that they are unable to address a substantive issue that has been raised in formal agency comments, they will convene a meeting (or conference call) with the involved agency working level staff and their first-level supervisors to discuss and resolve the issue. It is expected that most issues can be resolved in this way.
- Step 3 - Where significant issues remain unresolved, FHWA will convene a meeting of the executives from the associated agencies to address the outstanding issue. It is anticipated that the FHWA Division Administrator, INDOT Deputy Commissioner of the Office of Planning and Multi-Modal Transportation, and their equivalent at the associated agency would meet to discuss and resolve the issue. The respective agencies would draw on their Headquarters support staff as needed to address the outstanding issue.

Each agency has expertise and authority in particular areas. These streamlined procedures are not intended to -- nor can they -- diminish, modify, or otherwise affect current or future statutory or regulatory authorities of the agencies involved. In the event of any conflict between these procedures and other statutes or regulations, the statutes or regulations control.

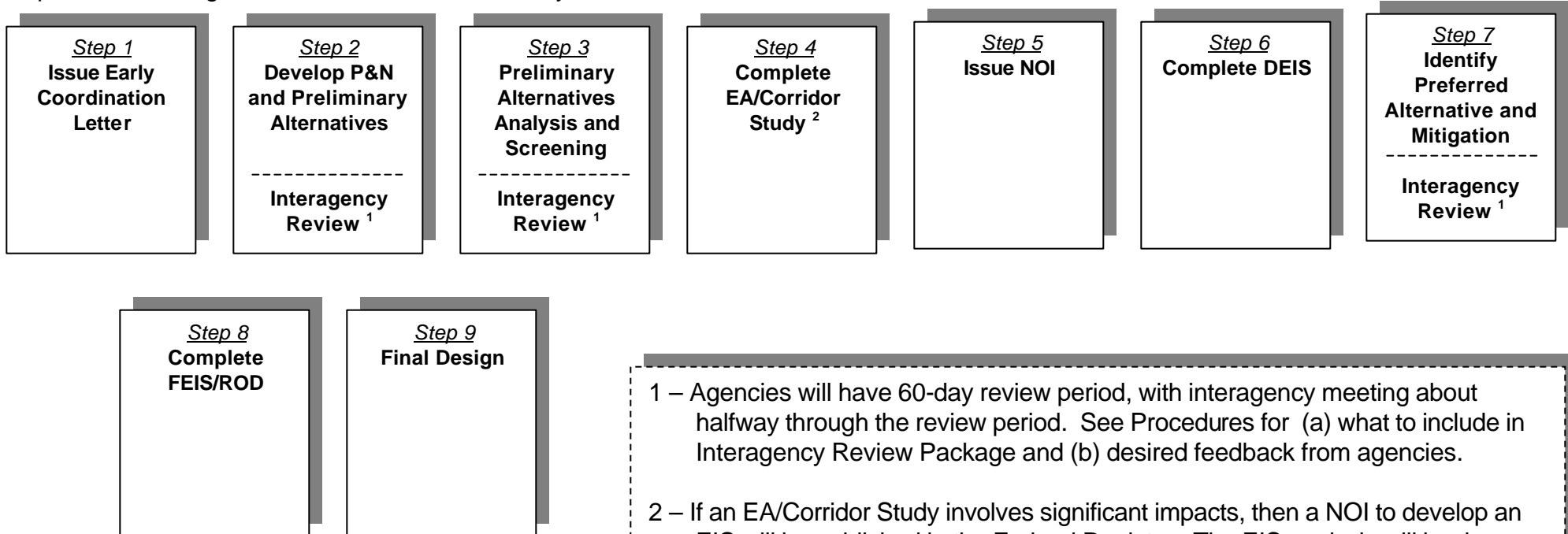
The ultimate decisions on P&N, alternatives selected for further study in the DEIS, and the Selected Action and Mitigation solely rests with FHWA and INDOT. This conflict Resolution Process in no way abrogates this responsibility.

# INDIANA'S STREAMLINED EIS PROCEDURES FLOWCHART

## Option 1 – Planning in Context of EIS



## Option 2: Planning in Context of EA/Corridor Study



- 1 – Agencies will have 60-day review period, with interagency meeting about halfway through the review period. See Procedures for (a) what to include in Interagency Review Package and (b) desired feedback from agencies.
- 2 – If an EA/Corridor Study involves significant impacts, then a NOI to develop an EIS will be published in the Federal Register. The EIS analysis will begin where the EA/Corridor Study ended.